



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket no. 220325-0079]

RTID 0648-XC261

Pacific Halibut Fisheries; Catch Sharing Plan; Inseason Action

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: This notice document announces additional season dates and increases the daily bag limit for some Pacific halibut recreational fisheries in the International Pacific Halibut Commission's (IPHC) regulatory Area 2A off Washington, Oregon, and California. Specifically, this action adds season dates such that the Oregon Central Coast subarea will be open 7 days per week starting September 1, and increases the daily bag limit from one to two fish starting September 1 in the Oregon Central and Southern Coast subareas. This action also provides notice of the closure of the California subarea on August 7, 2022 that was announced by the IPHC on August 5, 2022. This action is intended to conserve Pacific halibut and provide angler opportunity where available.

DATES: *Effective date:* This action is effective August 23, 2022, through October 31, 2022.

Comments due date: Submit comments on or before [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by NOAA-NMFS-2022-0003, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-

2022-0003 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Scott M. Rumsey, c/o Kathryn Blair, West Coast Region, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR, 97232.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post them for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Docket: This rule is accessible via the Internet at the Office of the Federal Register website at *https://www.federalregister.gov/*. Background information and documents are available at the NOAA Fisheries website at *https://www.fisheries.noaa.gov/action/2022-pacific-halibut-catch-sharing-plan* and at the Council’s website at *http://www.pcouncil.org*. Other comments received may be accessed through *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, phone: 562-980-4034, fax: 562-980-4018, or e-mail: *joshua.lindsay@noaa.gov*.

SUPPLEMENTARY INFORMATION: On April 1, 2022, NMFS published a final rule approving changes to the Pacific halibut Area 2A Catch Sharing Plan and implementing recreational (sport) management measures for 2022 (87 FR 19007), as authorized by the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773-773(k)). The 2022 Catch Sharing Plan provides a recommended framework for NMFS’ annual management measures and subarea allocations based on the 2022 Area 2A Pacific halibut catch limit of 1,490,000

pounds (lb) (675.9 metric tons (mt)) set by the International Pacific Halibut Commission (IPHC). These Pacific halibut management measures include recreational fishery season dates and subarea allocations.

Federal regulations at 50 CFR 300.63(c), “Flexible Inseason Management Provisions for Sport Halibut Fisheries in Area 2A,” allow the NMFS’ Regional Administrator to modify annual regulations during the season. These inseason provisions allow the Regional Administrator to modify sport (recreational) fishing periods, bag limits, size limits, days per calendar week, and subarea quotas, if it is determined it is necessary to meet the allocation objectives and the action will not result in exceeding the catch limit.

NMFS has determined that, due to continued lower than expected landings in portions of Oregon, inseason action to modify the 2022 annual regulations for the recreational fishery is warranted at this time to provide additional opportunity for fishery participations to achieve the Area 2A allocations as published in the final rule (87 FR 19007; April 1, 2022). As stated above, inseason modification of the fishing season is authorized by Federal regulations at 50 CFR 300.63(c). After consulting with representatives of the IPHC, the Pacific Fishery Management Council, and the Oregon Department of Fish and Wildlife (ODFW), NMFS determined the following inseason action is necessary to meet the management objective of attaining the various state and subarea allocations, has little risk of the subarea or coastwide allocation being exceeded from this action, and is consistent with the inseason management provisions allowing for the modification of sport fishing periods and sport fishing days per calendar week. Notice of these additional dates and closure of the fisheries will also be announced on the NMFS hotline at 206-526-6667 or 800-662-9825.

In addition, the recreational (sport) management measures for 2022 (87 FR 19007; April 1, 2022) for the California Coast subarea state that the fishery is open May

1 through November 15, or until the subarea allocation is estimated to have been taken and the season is therefore closed, whichever is earlier. The California subarea allocation was estimated to have been taken on August 7, 2022, and therefore the fishery closed. Closure of the California subarea was announced by the IPHC on August 5, 2022.

Inseason Action

Oregon Central Coast subarea

Description of the action: This inseason action implements additional dates for summer all-depth fishing in the Oregon Central Coast subarea, and increases the daily bag limit from one to two fish for the Oregon Central and Southern Coast subareas during the 2022 recreational fishery.

Reason for the action: The purpose of this inseason action is to provide additional opportunity for anglers in the Oregon Central Coast subarea by setting open season dates 7 days per week beginning September 1 through October 31. The fishery is currently scheduled to be open every Thursday through Saturday starting August 4. This action also allows for additional opportunity for anglers to retain up to two Pacific halibut per person per day in the Oregon Central and Southern Coast subareas beginning September 1. NMFS has determined that these additional dates and increased bag limit are warranted due to lower than expected landings through August 2022, and the expectation that a substantial amount of subarea allocation will go unharvested without additional fishing dates. As of August 10, anglers in the Oregon Central Coast subarea have harvested 129,155 lb (58.58 mt) of the 269,782 lb (122.37 mt) allocation (48 percent), leaving 140,627 lb (63.79 mt) remaining (52 percent of the subarea allocation). This is a result of poor weather and ocean conditions preventing anglers from safely participating in the recreational fishery off the coast of Oregon. After 163,231 lb (74.04 mt) of the subarea allocation went unharvested in 2021, NMFS included more season days in 2022

compared to 2021. NMFS previously published an inseason action on August 5, 2022 (87 FR 47944) to add additional fishing dates in this subarea. However, catch information to date shows that even with the increased fishing dates provided for in the final rule and inseason action, participants in the fishery are unlikely to harvest the full subarea allocation. Without the additional fishing days and increased bag limit in this action, there is likely to be substantial unharvested allocation in this subarea.

Notice of these additional dates will also be announced on the NMFS hotline at 206-526-6667 or 800-662-9825.

California subarea

Description of the action: This inseason action provides notice of closure for the recreational fishery in the California subarea, effective Sunday, August 7 at 11:59 p.m.

Reason for the action: On August 3, 2022, NMFS received catch information indicating that the catch amount for the recreational Pacific halibut fishery off of California was projected to be 35,553 lb (16.13 mt); out of an allocation of 38,740 lb (17.57 mt), with 3,187 lb (1.45 mt) remaining. Weekly catch amounts have averaged 4,013 lb (1.82 mt) in 2022, which includes an outlying week of high catch. When this week is removed, the average catch per week is 3,247 lb (1.47 mt). Therefore, NMFS estimated that the subarea allocation would be attained by August 7, 2022, triggering the closure of the fishery. IPHC issued a media release on August 5, 2022, notifying the public of the closure on August 7. This inseason is providing notice that the recreational fishery off of the California coast is closed.

Weekly catch monitoring reports for the recreational fisheries in Washington, Oregon, and California are available on their respective state Fish and Wildlife agency websites. NMFS and the IPHC will continue to monitor recreational catch obtained via state sampling procedures until NMFS has determined there is not sufficient allocation for another full day of fishing, and the area is closed by the IPHC, or the season closes for

Oregon on October 31, whichever is earlier.

Classification

NMFS issues this action pursuant to the Northern Pacific Halibut Act of 1982. This action is taken under the regulatory authority at 50 CFR 300.63(c), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(3)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. ODFW provided updated landings data to NMFS on August 4, 2022, showing that the fishery participants in the recreational fishery off of the Oregon Central Coast had only caught 47 percent of the subarea allocation. NMFS uses fishing rates from previous years to determine the number of recreational fishing dates needed to attain subarea allocations. The level of attainment of the allocation for 2022 is substantially lower than anticipated when the 2022 final rule setting the 2022 recreational fishery season dates was developed. This action should be implemented as soon as possible to allow fishery participants to take advantage of the additional fishing dates prior to the end of the season. As the fishery in Oregon closes on October 31, 2022, implementing this action through proposed and final rulemaking would limit the benefit this action would provide to fishery participants. Without implementation of additional season dates, a significant portion of the Oregon subarea allocations are unlikely to be harvested, limiting economic benefits to the participants and not meeting the goals of the Catch Sharing Plan and the 2022 management measures. It is necessary that this rulemaking be implemented in a timely manner so that planning for these new fishing days can take place, and for business and personal decision making by the regulated public impacted by this action, which includes recreational charter fishing operations, associated port businesses, and private anglers who do not live near the coastal access points for this fishery, among others. To ensure the regulated public is

fully aware of this action, notice of this regulatory action will also be provided to anglers through a telephone hotline, news release, and by the relevant state fish and wildlife agencies. NMFS will receive public comments for 15 days after publication of this action, in accordance with 50 CFR 300.63(c)(4)(ii). No aspect of this action is controversial, and changes of this nature were anticipated in the process described in regulations at 50 CFR 300.63(c).

For the reasons discussed above, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make this action effective immediately upon filing for public inspection, as a delay in effectiveness of this action would constrain fishing opportunity and be inconsistent with the goals of the Catch Sharing Plan and current management measures, as well as potentially limit the economic opportunity intended by this rule to the associated fishing communities. NMFS regulations allow the Regional Administrator to modify sport fishing periods, bag limits, size limits, days per calendar week, and subarea quotas, provided that the action allows allocation objectives to be met and will not result in exceeding the catch limit for the subarea. NMFS recently received information on the progress of landings in the recreational fisheries in the Oregon subarea, indicating additional dates and an increased bag limit should be added to the fishery to ensure optimal and sustainable harvest of the subarea allocation. As stated above, it is in the public interest that this action is not delayed, because a delay in the effectiveness of these new dates would not allow the allocation objectives of the recreational Pacific halibut fishery to be met.

Dated: August 22, 2022.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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